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**United States**  
**Circuit Court of Appeals**  
**For the Ninth Circuit.**

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WONG DOT,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,  
Port of San Francisco,

Appellee.

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**Transcript of Record.**

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Upon Appeal from the Southern Division of the  
United States District Court for the  
Northern District of California,  
First Division.

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**FILED**

MAR 4 - 1922

**F. D. MONCKTON,**  
CLERK.



United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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WONG DOT,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,  
Port of San Francisco,

Appellee.

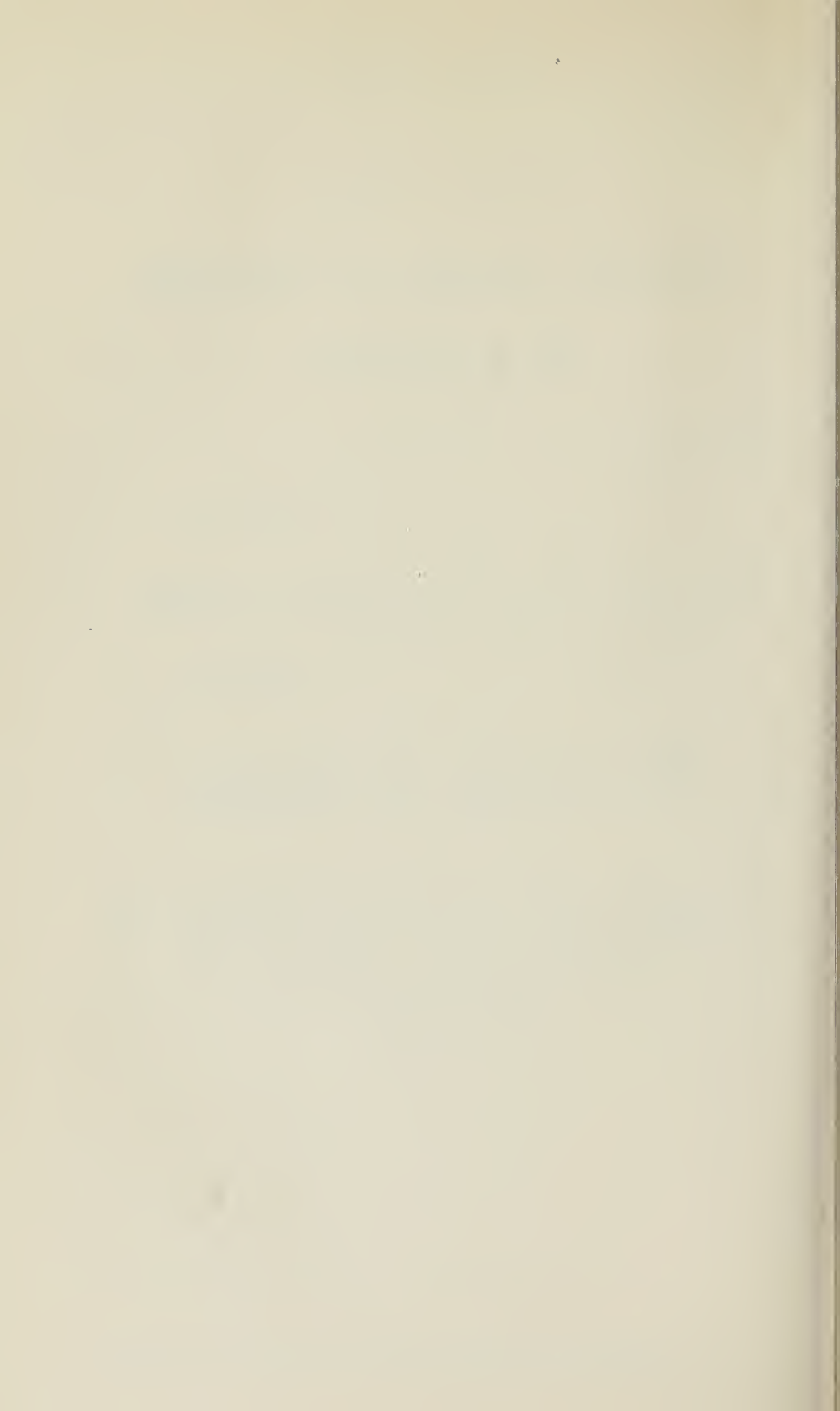
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Transcript of Record.

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Upon Appeal from the Southern Division of the  
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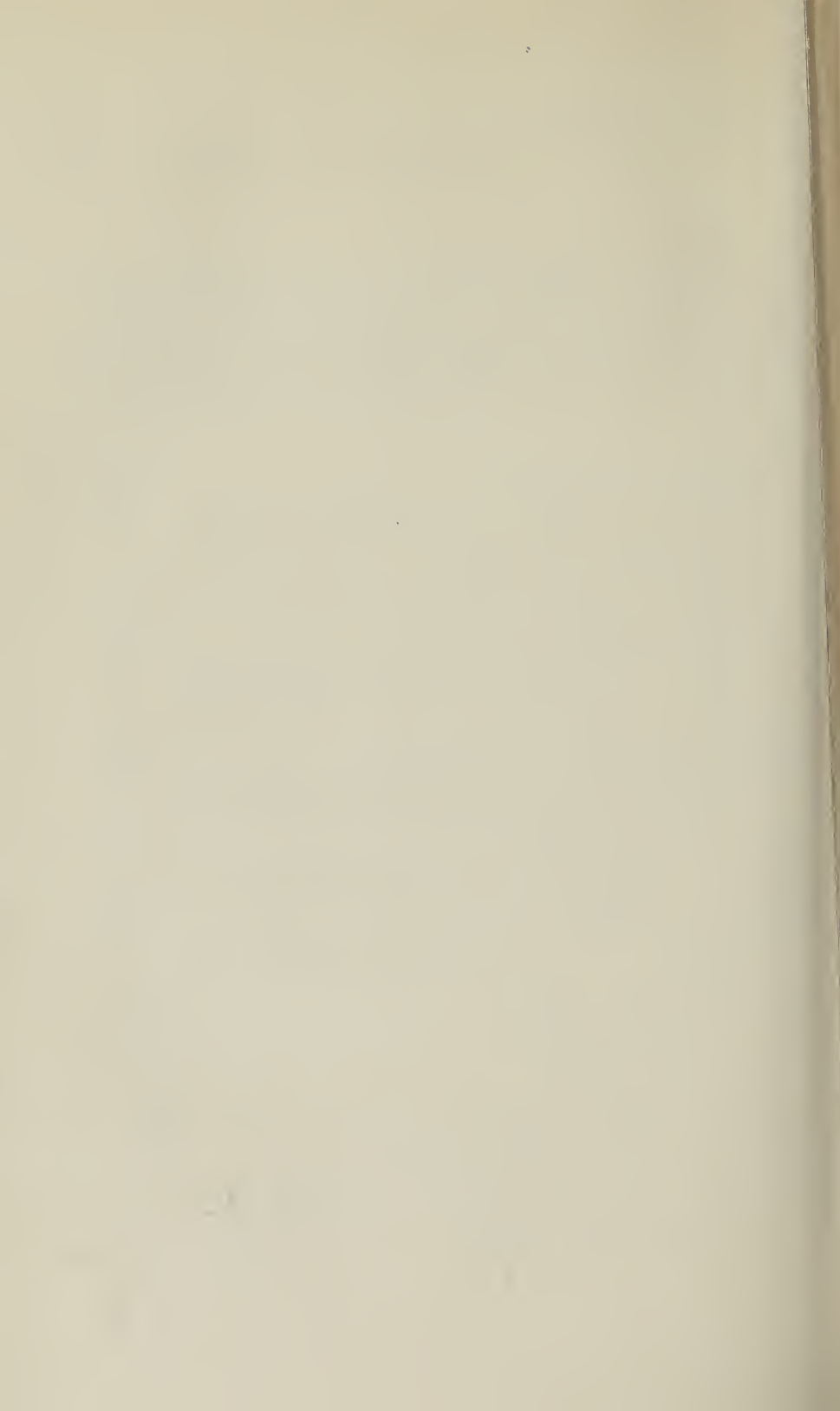


# INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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**Names and Addresses of Attorneys of Record.**

For Petitioner and Appellant:

JOSEPH P. FALLON, Esq., San Francisco,  
Calif.

For Respondent and Appellee:

UNITED STATES ATTORNEY, San Fran-  
cisco, Calif.

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In the Southern Division of the United States Dis-  
trict Court, for the Northern District of Cali-  
fornia, First Division.

No. 17,361

In the Matter of WONG DOT (OT), on Habeas  
Corpus.

**Praeceptum for Transcript of Record.**

To the Clerk of said Court:

Sir: Please make copies of the following papers  
to be used in preparing transcript on appeal:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause.
3. Demurrer to Petition.
4. Minute Order Regarding Immigration Record.
5. Judgment and Order Dismissing Order to  
Show Cause and Denying Petition for Writ.
6. Notice of Appeal.
7. Petition for Appeal.
8. Assignment of Errors.
9. Order Allowing Appeal.

10. Stipulation and Order Regarding Immigration Record.

11. Clerk's Certificate.

12. Citation on Appeal—original and copy.

JOSEPH P. FALLON,

Attorney for Petitioner.

[Endorsed]: Filed Feb. 4, 1922. W. B. Mal-  
ling, Clerk. By C. M. Taylor, Deputy Clerk. [1\*]

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In the Southern Division of the United States  
District Court, for the Northern District of  
California, First Division.

No. 17,361

In the Matter of WONG DOT (OT), #20284/11-9  
ex SS. "China," June 12, 1921, Merchant's  
Son, on Habeas Corpus.

**Petition for Writ of Habeas Corpus.**

To the Honorable, United States District Judge,  
Now Presiding in the United States District  
Court, in and for the Northern District of  
California, First Division.

It is respectfully shown by the petition of Wong  
Toy Tiew that Wong Dot (Ot), hereafter in  
this petition referred to as the "detained," is un-  
lawfully imprisoned, detained, confined and re-  
strained of his liberty by Edward White, Commis-  
sioner of Immigration for the port of San Fran-  
cisco, at the Immigration Station at Angel Island,  
county of Marin, State and Northern District of

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\*Page-number appearing at foot of page of original certified Transcript  
of Record.



California, Southern Division thereof; that the said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained is a Chinese person and alien not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6, 1882, July 5, 1884, November 3, 1893, and April 29, 1902, as amended and reenacted by Section 5 of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and that he, the said Commissioner, intends to deport the said detained away from and out of the United States to the [2] Republic of China.

That the said Commissioner claims that the said detained arrived at the port of San Francisco on or about the 12th day of June, 1921, on the SS. "China," and thereupon made application to enter the United States as the son of a lawfully domiciled merchant, and that the application of the said detained to enter the United States as the minor son of a lawfully domiciled merchant was denied by the said Commissioner of Immigration, and that an appeal was thereupon taken from the excluding decision of the said Commissioner of Immigration to the Secretary of the Department of Labor, and that the said Secretary thereafter dismissed the said appeal; that it is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair

hearing; that the action of the said Commissioner and the said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statute in such cases made and provided, and in accordance with the regulations promulgated under the authority contained in said statutes.

But, on the contrary, your petitioner, on his information and belief, alleges that the hearing and proceedings had herein, and the action of the said Commissioner, and the action of the said secretary was and is in excess of the authority committed to them by the said rules and regulations and by said statutes, and that the denial of the application of said detained to enter the United States as the son of a lawfully domiciled merchant was and is an abuse of the authority committed to them by the said statutes in each of the following particulars hereinafter set forth;

Your petitioner alleges upon his information and belief that the evidence presented before the immigration authorities upon the application of the said detained to enter the United States, which [3] said evidence is now hereby referred to with the same force and effect as if set forth in full herein, was of such a conclusive kind and character establishing the fact that the father of the detained was a lawfully domiciled merchant and that the said detained was his lawful minor son, and which said evidence was of such legal weight and sufficiency that it was an abuse of discretion on the part of the said Commissioner and the said secretary to

deny the said detained the right to admission into the United States and instead thereof to refuse to be guided by said evidence, and the said adverse action of the said Commissioner and the said secretary was, your petitioner alleges upon his information and belief, arrived at and was done in denying the said detained the fair hearing and consideration of his case to which he was entitled. Said action was done in excess of the discretion committed to the said secretary and to the said Commissioner of Immigration. And your petitioner further alleges upon his information and belief, that the said action of the said secretary and the said Commissioner was influenced against the said detained and against his witnesses solely because of their being of the Chinese race.

That your petitioner has not in his possession any part or parts of the said proceedings had before the said Commissioner and the said Secretary of Labor for the reason that your petitioner has just received telegraphic advice of the dismissal of the said appeal, and the copy of the said records, formerly in the possession of the attorney for the said detained, is now in the mails *en route* from Washington, D. C., to San Francisco; and it is for said reason impossible for your petitioner to annex hereto any part or parts of said immigration records; but your petitioner alleges his willingness to incorporate, and have considered as part and parcel [4] of his petition, the said immigration record when the same shall have been received from the Secretary of Labor at Washington, and shall

have it presented to this Court at the hearing to be had thereon.

That it is the intention of the said Commissioner to deport the said detained away from and out of the United States by the SS. "Nanking," sailing from the port of San Francisco on the 22d day of October, 1921, at 1 o'clock P. M., and unless this Court intervenes to prevent said deportation, the said detained will be deprived of residence within the United States.

That the said detained is in detention as afore-said, and for said reason is unable to verify this petition upon his own behalf, and for said reason this petition is verified by your petitioner, but for and as the act of the said detained.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner commanding and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into, to the end that the said detained may be restored to his liberty and go hence without day.

Dated San Francisco, Cal., October 21st, 1921.

JOSEPH P. FALLON,  
Attorney for Petitioner. [5]

State of California,  
City and County of San Francisco,—ss.

Wong Toy Tiew, being duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition; that he has heard read said petition and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

(Chinese Characters.)

Subscribed and sworn to before me this 21st day of October, 1921.

[Notarial Seal]

WM. E. SCHORD,

Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Oct. 21, 1921. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [6]

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In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), #20284/11-9  
ex SS. "China," June 12, 1921, Merchant's  
Son, on Habeas Corpus.

**Order to Show Cause.**

Upon reading and filing the verified petition of



Wong Toy Tiew praying for the issuance of the writ of habeas corpus,—

IT IS HEREBY ORDERED that Edward White, as Commissioner of Immigration at the port of San Francisco, at Angel Island, be and appear before the above-entitled Court, Department Number One thereof, on Saturday, the 5th day of November, 1921, to show cause, if any he have, why a writ of habeas corpus should not issue in this matter and the petition granted as prayed, and this at the hour of 10 o'clock of said day; and

IT IS FURTHER ORDERED that said Wong Dot (Ot) be not removed from the jurisdiction of this Court until the further order of this Court; and

IT IS FURTHER ORDERED that a copy of this order be served upon said Edward White or such other person having the said Wong Dot (Ot) in custody as an officer of said Edward White.

Dated: October 21, 1921.

M. T. DOOLING,  
United States District Court Judge.

[Endorsed]: Filed Oct. 21, 1921. W. B. Maling,  
Clerk. By C. M. Taylor, Deputy Clerk. [7]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT) on Habeas  
Corpus.

**Demurrer to Petition for Writ of Habeas Corpus.**

Comes now the respondent, Edward White, Commissioner of Immigration, at the port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

**I.**

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

**II.**

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law and not statements of the ultimate facts.

**WHEREFORE**, respondent prays that the writ of habeas corpus be denied.

JOHN T. WILLIAMS,  
United States Attorney,  
BEN F. GEIS,  
Assistant U. S. Attorney,  
Attorneys for Respondent.

[Endorsed]: Filed Nov. 26, 1921. W. B. Maling,  
Clerk. By Lyle S. Morris, Deputy Clerk. [8]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 26th day of November, in the year of our Lord, one thousand nine hundred and twenty-one. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas Corpus.

**Minutes of Court November 26, 1921—Hearing on  
Order to Show Cause.**

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein. J. P. Fallon, Esq., was present as attorney for petitioner and detained. P. A. Robbins, Esq., was present as attorney for and on behalf of respondent, and filed demurrer to petition, and all parties consenting thereto, it is ordered that the Immigration Records be filed as Respondent's Exhibits "A" to "F," inclusive, and that the same be considered as part of original petition. After argument by the respective attorneys, the Court ordered said matter submitted on records herein. [9]



In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas Corpus.

**(Opinion and Order Sustaining Demurrer to  
Petition.)**

JOSEPH P. FALLON, Esq., Attorney for Petitioner.

JOHN T. WILLIAMS, Esq., United States Attorney, and BEN. F. GEIS, Esq., Assistant United States Attorney, Attorneys for Respondent.

**ON DEMURRER TO PETITION FOR WRIT OF  
HABEAS CORPUS.**

While it is quite possible that if the testimony in this record were presented to the Court in the first instance a different conclusion would have been reached from that of the Immigration Department, yet as the hearing was not unfair, and they found the facts against the applicant, the Court cannot interfere.

The demurrer must therefore be sustained and the petition denied.

December 8th, 1921.

M. T. DOOLING,  
Judge.

[Endorsed]: Filed Dec. 8, 1921. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [10]

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In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas Corpus.

**Notice of Appeal.**

To the Clerk of said Court, and to the Honorable FRANK M. SILVA, United States Attorney in and for the Southern Division of the United States District Court, for the Northern District of California, First Division.

You, and each of you, will please take notice that Wong Toy Tiew, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein December 8, 1921, denying the petition for a writ of habeas corpus filed herein.

JOSEPH P. FALLON,  
Attorney for Petitioner.

[Endorsed]: Filed Dec. 10, 1921. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [11]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas Corpus.

**Petition for Appeal.**

Comes now Wong Toy Tiew, the petitioner in the above-entitled matter, and respectfully shows:

That on the 8th day of December, 1921, a judgment and order was made by the above-entitled Court, and entered herein denying a writ of habeas corpus in the above-entitled matter and dismissing the petition of said petitioner for a writ of habeas corpus in which said judgment and order certain errors were committed to the prejudice of the above-named Wong Dot (Ot), which more fully appear by his assignment of errors filed herewith.

WHEREFORE, your petitioner prays that an appeal may be allowed to the United States Circuit Court of Appeals for the Ninth Circuit for the correction of the errors so complained of, and that the clerk of the above-entitled court be directed to make and prepare a transcript of all the papers, proceedings and record of the above-entitled matter and to transmit the same to the United States Circuit Court of Appeals, for the Ninth Circuit, within the time allowed by law, and for an order that the ex-

ecution of the warrant of deportation of said Wong Dot (Ot) be stayed pending this appeal.

JOSEPH P. FALLON,  
Attorney for Petitioner. [12]

[Endorsed]: Filed Dec. 10, 1921. W. B. Mal-  
ing, Clerk. By C. W. Calbreath, Deputy Clerk.  
[13]

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In the Southern Division of the United States  
District Court, for the Northern District of  
California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas  
Corpus.

### Assignment of Errors.

Now comes the petitioner, Wong Toy Tiew,  
through his attorney, Joseph P. Fallon, Esq., and  
sets forth the errors he claims the above-entitled  
Court committed in denying his petition for a writ  
of habeas corpus as follows:

#### I.

That said Court erred in not granting said peti-  
tion for a writ of habeas corpus.

#### II.

That said Court erred in denying said petition  
for a writ of habeas corpus.

#### III.

That said Court erred in holding that the petition  
did not show or tend to show that said Wong Dot

(Ot) did not obtain or was accorded a full and fair hearing or any legal hearing by said immigration officers or by said Secretary of Labor.

IV.

That the Court erred in not holding that the evidence submitted upon the application of the said detained to enter the United States was of such a conclusive kind and character and was of such legal weight and sufficiency that it was an abuse of discretion on the part of said immigration officials not to be guided thereby.

JOSEPH P. FALLON,

Attorney for Petitioner. [14]

[Endorsed]: Filed Dec. 10, 1921. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [15]

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In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas Corpus.

**Order Allowing Appeal.**

It appearing to the above-entitled Court that Wong Toy Tiew, the petitioner herein, has this day filed and presented to the above Court his petition praying for an order of this Court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and order

of this Court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor;

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and record in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Wong Dot (Ot) be and the same is hereby stayed pending this appeal and that the said Wong Dot (Ot) be not removed from the jurisdiction of this Court pending this appeal.

Dated: December 10th, 1921.

M. T. DOOLING,  
United States District Judge. [16]

[Endorsed]: Filed Dec. 10, 1921. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [17]

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In the Southern Division of the United States  
District Court, for the Northern District of  
California, First Division.

No. 17,361.

In the Matter of WONG DOT (OT), on Habeas  
Corpus.



**Stipulation and Order Respecting Withdrawal of  
Immigration Record.**

It is hereby stipulated and agreed by and between the attorney for the petitioner and appellant herein and the attorney for the respondent and appellee herein, that the original immigration record in evidence and considered as part and parcel of the petition for a writ of habeas corpus upon hearing of the demurrer in the above-entitled matter, may be withdrawn from the files of the clerk of the above-entitled court and filed with the clerk of the United States Circuit Court of Appeals in and for the Ninth Circuit, there to be considered as a part and parcel of the record on appeal in the above-entitled case with the same force and effect as if embodied in the transcript of the record, and so certified to by the clerk of the court.

Dated: San Francisco, California, December  
—, 1921.

JOHN T. WILLIAMS,

Attorney for Respondent and Appellee.

JOSEPH P. FALLON,

Attorney for Petitioner and Appellant. [18]

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said immigration record therein referred to may be withdrawn from the office of the clerk of this court and filed in the office of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by this Court.

Dated: San Francisco, California, January 28th, 1921.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Filed Jan. 28, 1922. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [19]

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(Citation on Appeal—Copy.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to EDWARD WHITE, Commissioner of Immigration, Port of San Francisco, and JOHN T. WILLIAMS, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, wherein Wong Dot is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the



Northern District of California, this 28th day of January, A. D. 1922.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Filed Jan. 28, 1922. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [20]

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**Certificate of Clerk U. S. District Court to  
Transcript on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 20 pages, numbered from 1 to 20, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the matter of Wong Dot (Ot), on habeas corpus, No. 17,361, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the praecipe for transcript on appeal (copy of which is embodied herein), and the instructions of the attorney for petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Six Dollars and Ninety-five Cents (\$6.95), and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation on appeal (page 22) issued herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 23d day of February, A. D. 1922.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk.

[21]

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**Citation on Appeal (Original).**

UNITED STATES OF AMERICA,—ss.

The President of the United States, to EDWARD WHITE, Commissioner of Immigration, Port of San Francisco, and JOHN T. WILLIAMS, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, wherein Wong Dot is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the

Northern District of California, this 28th day of January, A. D. 1922.

M. T. DOOLING,  
United States District Judge.

[22]

[Endorsed]: No. 17,361. United States District Court for the Northern District of California, Southern Division. Wong Dot, Appellant, vs. Edward White, Appellee. Citation on Appeal. Filed Jan. 28, 1922. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

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[Endorsed]: No. 3837. United States Circuit Court of Appeals for the Ninth Circuit. Wong Dot, Appellant, vs. Edward White, as Commissioner of Immigration, Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed February 23, 1922.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

